

REMARKS

Claims 1-13, 79-82 and 93-108 are pending in this application. Claims 5-13, 79-82, 94-96, 101-103 and 105-108 have been allowed. Claims 1-4, 93, 97-100 and 104 have been rejected under 35 U.S.C. §102(b).

Claims 1, 3, 4, 79, 93, 97, 98, 100, 104 have been amended with no new matter having been added.

Claim 79

Claim 79 was amended to correct a spelling mistake.

Rejections under 35 U.S.C. § 102(b)

Claims 1-4, 93, 97-100 and 104 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,057,165 to Mansour (hereinafter “Mansour”). Applicants traverse this rejection.

Independent Claims 1, 93 and 100

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference. MPEP §2131. Applicants believe that Mansour does not anticipate the present invention because it does not set forth at least one of the claim elements of independent claims 1, 93 and 100.

To further clarify the invention, applicants have amended independent claims 1, 93 and 100 in response to the Examiner’s remarks on page 4 of the Office Action. In particular, applicants have amended independent claim 1 such that it now recites that the carrier mates with the carrier-receiving portion, closes the first opening, seals the first opening to prevent fluid flow through the bottom surface, and forms a reservoir.

Independent claim 93 has been amended such that it now recites that the carrier is removably attached to the device at the carrier-receiving portion such that the first opening is closed by the bottom surface to prevent fluid flow through the bottom surface and to form a reservoir with the bottom surface and at least a portion of the conduit and

wherein the device excludes at least a portion of the bottom surface of the carrier from the reservoir.

Also, applicants have amended independent claim 100 to clarify the invention and in response to the Examiner's remarks. Claim 100 now recites that the carrier mates with the device at the carrier-receiving portion to form a reservoir with the bottom surface and at least a portion of the conduit and to close the first opening by the bottom surface and to prevent fluid flow through the first opening and wherein the device covers at least a portion of the bottom surface from the reservoir.

In the newly amended claims, Mansour does not disclose, teach or suggest at least the claim limitation of fluid prevented to flow *through* the bottom surface or *through* the first opening. The independent claims require the carrier to close the first opening. This limitation is not found in Mansour and therefore, Mansour does not anticipate independent claims 1, 93 and 100.

In contrast, fluid flows out of the reservoir in Mansour through a system of porous and flow control layers that close the reservoir opening. "The assay composite 40 is comprised of a porous membrane 41..." Mansour, col. 11, lines 7-8. The porosity of the composite is discussed in Mansour at col. 11, lines 5-17. "Adjacent to the lower surface of the porous membrane 41 is a flow control layer 42 which is preferably formed from a unidirectional flow-controlling polycarbonate membrane having a pore size of 0.6 micron." Mansour, col. 11, lines 14-17. "Immediately underneath the flow control layer is a porous spacer layer 42 which generally has a pore size greater than the pore size of flow controlling layer 42." Mansour, col. 11, lines 18-20. "Immediately underneath the porous spacer layer 43 is absorptive layer 44." Mansour, col. 11, lines 22-23.

Clearly, in Mansour the reservoir is not sealed and fluid is allowed to flow through the various porous and flow-control layers. Actually, there is nothing even beyond the absorptive layers to further contain fluid flow within the reservoir at that end. In fact, spaces are provided to ventilate the assay composite 40. See Mansour at col. 11, lines 46-50 ("The cover 46 is supported over porous membrane 41 by teeth-like projections 49 extending upward from the sides of the base 45. The projections 49 are of sufficient height to provide air spaces 50 which provide for ventilation of the sides of the assay composite 40."). Mansour's device peculiarly ventilates the assay composite which

according to the Office is an equivalent to the sample. *In such a construction, fluid flows into, through and past the sample and even capably beyond them and through the spaces 50 in Mansour.* Therefore, Mansour is quite different from applicants' invention as claimed and not anticipated for this reason.

To further emphasize this fluid flow from the reservoir at the end where the sample is located and the reservoir is closed in Mansour, applicants refer the Office to col. 12, lines 2-7 of Mansour which reads as follows:

A test sample is applied to the test area 60 through delivery device 10 whereby the sample contacts the binder in test area 60, with the sample flowing through the assay composite to the absorbent layer 44. The analyte present in the sample will become specifically bound to the binder in area 60.

Also, at col. 12, lines 8-11, Mansour states:

Thereafter, tracer is applied to the test area 60 through the delivery device 10. The tracer becomes bound to the analyte, and any unbound portion flows through to the absorbent layer 44.

And, again at col. 12, lines 28-29, Mansour states:

...with sample flowing through to the absorbent layer 44.

In Mansour, sample flows out of the reservoir and through the composite of layers. The carrier does not seal the reservoir at that end where the sample is located. Therefore, Mansour does not anticipate the present invention as claimed. For this reason, independent claims 1, 93 and 100 and their respective dependent claims are in a condition for allowance.

Dependent claims 4, 97 and 104

Dependent claims 4, 97 and 104 were rejected by the Office as being anticipated by Mansour. Applicants have amended these claims to clarify the invention. In particular, these claims now recite that specifically transferred material transferred by microdissection is present on the carrier and that at least a portion of such specifically transferred material is included in the reservoir.

Applicants believe that Mansour does not anticipate the present invention because it does disclose, teach or suggest the limitation of specifically transferred material transferred by microdissection and non-specifically transferred material being located on the carrier wherein at least a portion of the non-specifically transferred material is excluded from the reservoir and a portion of the specifically transferred material is included in the reservoir. Because, a claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference (MPEP §2131) and because Mansour does not disclose, teach or suggest the aforementioned claim limitations Mansour does not anticipate dependent claims 4, 97 and 104 and therefore, these claims are in a condition for allowance.

Dependent claims 3 and 98

Applicants have amended claim 3 to add a period at the end of the sentence and have amended claim 98 to correct a grammatical error.

The Office rejected dependent claims 3 and 98 as being anticipated by Mansour. Applicants traverse this rejection. The Office on page 3 of the Office Action states that

Mansour further teaches that a well (10) may be mated with the cover at the conduit for delivering fluids into the conduit (col. 12, lines 1-7).

Applicants would like to point out that even though Mansour calls item (10) a well, the well includes an opening in the top and an opening in the bottom. At col. 10, lines 49-50, Mansour states:

An opening 14 in the bottom 13 allows a fluid in the well to flow out.

Therefore, the well (10) of Mansour is not able to contain fluid and is different from the vessel recited in the claims. The dictionary definition of the word vessel obtained from the Internet website www.dictionary.com is:

1. A hollow utensil, such as a cup, vase, or pitcher, used as a container, especially for liquids.

It is not understood how the well alone of Mansour is used as a container or vessel when it has an opening 14 in the top and in the bottom that allows fluid in the well to flow out. Hence, Mansour does not anticipate dependent claims 3 and 98.

Dependent claim 99

The Office rejected dependent claim 99 as being anticipated by Mansour. In addition to the reasons set forth hereinbelow, applicants traverse this rejection for the reasons set forth above with respect to claim 98 as claim 99 depends from claim 98.

With respect to claim 99, the Office specifically states:

With respect to claim 99, Mansour teaches that a well (of a microtiter plate) may be mated with the cover at the conduit for delivering fluids into the conduit (col. 12, lines 1-7).

Office Action, page 5. Mansour does not recite or anywhere in the specification disclose a centrifuge tube or microtiter plate. The Mansour specification at col. 12, lines 1-7 referenced by the Examiner only states:

The test area 60 of the assay device 70 is used to determine the presence of an analyte. A test sample is applied to the test area 60 through delivery device 10 whereby the sample contacts the binder in test area 60, with the sample flowing through the assay composite to the absorbent layer 44. The analyte present in the sample will become specifically bound to the binder in area 60.

There is no mention of a centrifuge tube or microtiter plate in the above-referenced quotation from or anywhere in the specification of Mansour. In fact, Mansour teaches away from using a centrifuge tube or microtiter plate by disclosing a well (10) that has two openings—one in the top and one in the bottom that allows fluid to flow out. Because Mansour does not disclose a “centrifuge tube” or a “microtiter plate” as recited in claim 99 and because these elements are not found in Mansour, the claim is not anticipated by it. Therefore, claim 99 is also in a condition for allowance.

Extraction

The Office states that:

“Mansour does not disclose the cover having the conduit as an extraction unit. However, in the claims the extraction unit is defined as having a carrier receiving portion and a conduit extending between a first opening and a second opening of the carrier-receiving portion.

Office Action, pg. 3, paragraph 2. The term “extraction” should be afforded the broadest interpretation as is possible.

Transfer film

The Office states that the “[t]ransfer film has been interpreted in light of the specification as a film adapted for absorbing energy delivered by a laser pulse or multiple laser pulses and further adapted for expanding and adhering to the target cells (specification page 10, paragraph 52).” Office Action, pg. 3-4. Applicants believe that the Office adopted an unnecessarily overly narrow interpretation of the term “transfer film.” While applicants agree that the term “transfer film” should be interpreted in light of the specification, the specification of the present invention at **paragraph 53** (last two sentences of the paragraph) states:

The invention is not limited to transfer films comprising heat activated adhesive materials. Pressure sensitive adhesives may be employed as well as other materials and types of transfer films 28.


Therefore, in light of the specification, the term “transfer film” requires a broader interpretation than that afforded by the Office. In the last response, applicants incorrectly referenced paragraph 63 instead of paragraph 53 for the above reference from the specification of the present invention. The term “transfer film” should be interpreted in light of the specification affording the broadest possible interpretation with it being understood that the invention is not limited to the particular forms disclosed and that the invention is to cover all modifications, equivalents, and alternatives falling within the spirit and scope of the invention.

In view of the foregoing remarks, applicants respectfully submit that the application is in a condition for allowance, and action toward that end is earnestly solicited. The Office is invited to contact the applicant’s representative at the number below to facilitate prosecution of this application.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time.

Respectfully submitted,

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